NOTIFICATION. 602

No. L.D. 738—Legis. 3-51-19, dated Bangalore, 10th July 1951.

Ordered that the accompanying Plantations Labour Bill, 1951 (Central Bill No. 59 of 1951), published in the *Gazette of India*, Part II, Section 2, dated the 16th June 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

BILL *No. 59 OF 1951.

A Bill to provide for the welfare of labour, and to regulate the conditions of work, in plantations.

BE it enacted by parliament as follows :—

CHAPTER I

PRELIMINARY

1. *Short title, extent, commencement and application.*—(1) This Act may be called the Plantations Labour Act, 1951.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

(4) It applies in the first instance to all tea, coffee, rubber and cinchona plantations, but any State Government may, subject to the previous approval of the Central Government, by notification in the Official Gazette, apply it to any other class of plantations within that State.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) " adolescent " means a person who has completed his fifteenth year but has not completed his eighteenth year ;

(*b*) " adult " means a person who has completed his eighteenth year ;

(*c*) " child " means a person who has not completed his fifteenth year ;

(*d*) " day " means a period of twenty-four hours beginning at midnight ;

(*e*) " employer ", when used in relation to a plantation, means the person who has the ultimate control over the affairs of the

*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Parliament the introduction of the Bill.

plantation, and where the affairs of any plantation are entrusted to any other person (whether called a managing agent, manager, superintendent or by any other name) such other person shall be deemed to be the employer in relation to that plantation;

(*f*) "plantation" means any land used or intended to be used for growing tea, coffee, rubber or cinchona which admeasures ten acres or more or whereon twenty or more persons are employed, or were employed on any day of the preceding twelve months, and in any State where the provisions of this Act have been applied by notification under sub-section (4) of section 1 to any other class of plantations, means also any land used or intended to be used for growing the plant mentioned in such notification and whereon twenty or more persons are employed, or were employed on any day of the preceding twelve months;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "qualified medical practitioner" means a person having a certificate granted by an authority specified in the Schedule to the Indian Medical Degrees Act, 1916 (VII of 1916) or in the Schedules to the Indian Medical Council Act, 1933 (XXVII of 1933);

(*i*) "wages" has the meaning assigned to it in clause (*h*) of section 2 of the Minimum Wages Act, 1948 (XI of 1948);

(*j*) "week" means a period of seven days beginning at midnight on Saturday night or such other night as may be fixed by the State Government in relation to plantations in any area after such consultation as may be prescribed with reference to the plantations concerned in that area;

(*k*) "worker" means a person employed in a plantation for hire or reward, whether directly or through any agency, to do any work, skilled, unskilled, manual or clerical, but does not include—

(*a*) a medical attendant at the plantation;

(*b*) any person whose monthly wages exceed two hundred rupees; or

(*c*) a person employed in a plantation primarily in a managerial or other supervisory capacity notwithstanding that his monthly wages do not exceed rupees two hundred;

(*l*) "young person" means a person who is either a child or an adolescent.

3. *Reference to time of day.*—In this Act, references to time of day are references to Indian Standard time being five and a half hours ahead of Greenwich Mean time:

Provided that for any area in which the Indian Standard time is not ordinarily observed, the State Government may make rules—

(*a*) specifying the area;

(*b*) defining the local mean time ordinarily observed therein; and

(*c*) permitting such time to be observed in all or any of the plantations situated in that area.

CHAPTER II 604

INSPECTING STAFF

4. *Chief Inspector and Inspectors.*—(1) The State Government may, by notification in the Official Gazette, appoint for the State a duly qualified person to be the chief inspector of plantations and so many duly qualified persons to be inspectors of plantations subordinate to the chief inspector as it thinks fit.

(2) Subject to such rules as may be made in this behalf by the State Government, the chief inspector may declare the local area or areas within which, or the plantations with respect to which, inspectors shall exercise their powers under this Act, and may himself exercise the powers of an inspector within such limits as may be assigned to him by the State Government.

(3) The chief inspector and all inspectors shall be deemed to be public servants within the meaning of the indian Penal Code (Act XLV of 1860).

5. *Powers and functions of inspectors.*—Subject to any rules made by the State Government in this behalf, an inspector may within the local limits for which he is appointed—

(*a*) make such examination and enquiry as he thinks fit in order to ascertain whether the provisions of this Act and of the rules made thereunder are being observed in the case of any plantation ;

(*b*) with such assistants, if any, as he thinks fit, enter, inspect and examine any plantation or part thereof at any reasonable time for the purpose of carrying out the objects of this Act ;

(*c*) examine the crops grown in any plantation or any worker employed therein or require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purposes of this Act ;

(*d*) exercise such other powers as may be prescribed :

Provided that no person shall be compelled under this section to answer any question or make any statement tending to incriminate himself.

6. *Facilities to be afforded to inspectors.*—Every employer shall afford the inspector all reasonable facilities for making any entry, inspection, examination or inquiry under this Act.

7. *Certifying surgeons.*—(1) The State Government may appoint qualified medical practitioners to be certifying surgeons for the purposes of this Act within such local limits or for such plantation or class of plantations as it may assign to them respectively.

(2) The certifying surgeon shall carry out such duties as may be prescribed in connection with—

(*a*) the examination and certification of workers ;

(*b*) the exercise of such medical supervision as may be prescribed where adolescents and children are, or are to be, employed in any work in any plantation which is likely to cause injury to their health.

CHAPTER III

Provisions as to Health

8. *Drinking water.*—In every plantation effective arrangements shall be made by the employer to provide and maintain at convenient places in the plantation a sufficient supply of wholesome drinking water for all workers.

9. *Conservancy.*—(1) There shall be provided separately for males and females in every plantation a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to workers employed therein.

(2) All latrines and urinals provided under sub-section (1) shall be maintained in a clean and sanitary condition.

10. *Medical facilities.*—(1) In every plantation there shall be provided and maintained so as to be readily available during all working hours such medical facilities for the workers as may be prescribed by the State Government.

(2) If in any plantation medical facilities are not provided and maintained as required by sub-section (1) the chief inspector may cause to be provided and maintained therein such medical facilities, and recover the cost thereof from the defaulting employer.

(3) For the purposes of such recovery, the chief inspector may certify the costs to be recovered to the collector, who may recover the amount as an arrear of land revenue.

CHAPTER IV

Welfare

11. *Canteens.*—(1) The State Government may make rules requiring that in every plantation wherein two hundred and fifty workers are ordinarily employed, one or more canteens shall be provided and maintained by the employer for the use of the workers.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the date by which the canteen shall be provided ;

(*b*) the number of canteens that shall be provided and the standards in respect of construction, accommodation, furniture and other equipment of the canteens ;

(*c*) the food-stuffs which may be served therein and the charges which may be made therefor ;

(*d*) the constitution of a managing committtee for the canteen and the representation of the workers in the management of the canteen ;

(*e*) the delegation to the chief inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (*c*).

12. *Creches*—(1) In every plantation wherein more than one hundred women workers are employed or were employed on any day of

the preceding twelve months, there shall be provided and maintained by the employer suitable rooms for the use of children of such women who are below the age of six years.

(2) Such rooms shall—

(*a*) provide adequate accommodation;

(*b*) be adequately lighted and ventilated;

(*c*) be maintained in a clean and sanitary condition; and

(*d*) be under the charge of a woman trained in the care of children and infants.

(3) The State Government may make rules prescribing the location and the standards of such rooms in respect of their construction and accommodation and the equipment to be provided therein.

13. *Recreational facilities.*—The State Government may make rules requiring every employer to make provision in his plantation for such recreational facilities for the workers and children employed therein as may be prescribed.

14. *Educational facilities.*—Where the children between the ages of six and twelve of workers employed in any plantation exceed fifty in number, the State Government may make rules requiring every employer to provide educational facilities for the children in such manner and of such standard as may be prescribed.

15. *Housing facilities.*—It shall be the duty of every employer to provide and maintain for every worker and his family residing in the plantation necessary housing accommodation.

Explanation.—For the purpose of this Chapter, "family" means the worker's wife, children, aged parents, and minor sisters and brothers residing with and wholly dependent upon the worker.

16. *Power to make rules relating to housing.*—The State Government may make rules for the purpose of giving effect to the provisions of section 15 and, in particular, providing for—

(*a*) the standard and specification of the accommodation to be provided;

(*b*) the selection and preparation of sites for the construction of houses and the size of such plot;

(*c*) the constitution of advisory boards consisting of representatives of the State Government, the employer and the workers for consultation in regard to matters connected with housing and the exercise by them of such powers, functions and duties in relation thereto as may be specified;

(*d*) the fixing of rent for the housing accommodation provided for workers;

(*e*) the allotment to workers of housing accommodation and the eviction of workers therefrom;

(*f*) access to the public to those parts of the plantation wherein the workers are housed.

CHAPTER V 608

HOURS AND LIMITATION OF EMPLOYMENT

17. *Weekly hours.*—Save as otherwise expressly provided in this Act, no adult worker shall be required or allowed to work on any plantation in excess of fifty-four hours a week and no adolescent or child for more than forty hours a week.

18. *Weekly holidays.*—(1) The State Government may by rules made in this behalf—

(*a*) provide for a day of rest in every period of seven days which shall be allowed to all workers;

(*b*) provide for payment for work done on a day of rest at a rate not less than the overtime rate prevailing in the area, and where there is no such rate at such rate as may be fixed by the State Government in this behalf.

(2) Notwithstanding anything contained in clause (*a*) of sub-section (1) where a worker is willing to work on any day of rest which is not a closed holiday in the plantation, nothing contained in this section shall prevent him from doing so:

Provided that in so doing a worker does not work for more than ten days consecutively without a holiday for a whole day intervening.

Explanation 1.—Where on any day a worker has been prevented from working in any plantation by reason of tempest, fire, rain or other natural causes, that day, may, if he so desires, be treated as his day of rest for the relevant period of seven days within the meaning of sub-section (1).

Explanation 2.—Nothing contained in this section shall apply to any worker whose total period of employment including any day spent on leave is less than six days.

19. *Daily intervals for rest.*—The period of work on each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest for at least half an hour.

20. *Spread-over.*—The period of work of an adult worker in a plantation shall be so arranged that inclusive of his interval for rest under section 19 it shall not spread over more than twelve hours including the time spent in waiting for work on any day.

21. *Notice of period of work.*—(1) There shall be displayed and correctly maintained in every plantation a notice of periods of work in such form and manner as may be prescribed showing clearly for every day the periods during which the workers may be required to work.

(2) Subject to the other provisions contained in this Act, no worker shall be required or allowed to work in any plantation otherwise than in accordance with the notice of periods of work displayed in the plantation.

(3) An employer may refuse to employ a worker for any day if on that day he turns up for work more than half an hour after the time fixed for the commencement of the day's work.

22. *Prohibition of employment of young children.*—No child who has not completed his twelfth year shall be required or allowed to work in any plantation.

23. *Night work for women and children.*—Except with the permission of the State Government, no woman or child worker shall be employed in any plantation otherwise than between the hours of 6 A.M. and 7 P.M.:

Provided that nothing in this section shall be deemed to apply to midwives and nurses employed as such in any plantation.

24. *Non-adult workers to carry tokens.*—No child who has completed his twelfth year and no adolescent shall be required or allowed to work in any plantation unless—

(*a*) a certificate of fitness granted with reference to him under section 25 is in the custody of the employer; and

(*b*) such child or adolescent carries with him while he is at work a token giving a reference to such certificate.

25. *Certificate of fitness.*—(1) A certifying surgeon shall, on the application of any young person or his parent or guardian accompanied by a document signed by the employer or any other person on his behalf that such person will be employed in the plantation if certified to be fit for work, or on the application of the employer or any other person on his behalf with reference to any young person intending to work, examine such person and ascertain his fitness for work either as a child or as an adolescent.

(2) A certificate of fitness granted under this section shall be valid for a period of twelve months from the date thereof, but may be renewed.

26. *Power to require medical examination.*—An inspector may, if he thinks necessary so to do, cause any young person employed in a plantation to be examined by a certifying surgeon.

CHAPTER VI

LEAVE WITH WAGES

27. *Annual leave with wages.*—(1) Every worker shall be allowed leave with wages for a number of days calculated at the rate of—

(*a*) if an adult or adolescent, at the rate of one day for every 30 days of work performed by him, and

(*b*) if a child, one day for every twenty days of work performed by him:

Provided that a period of leave shall be inclusive of any holiday which may occur during such periods.

(2) If a worker does not in any one period of twelve months take the whole of the leave allowed to him under sub-section (1), any leave not taken by him shall be added to the leave to be allowed to him under that sub-section in the succeeding period of twelve months.

(3) A worker shall cease to earn any leave under this section when the earned leave due to him amounts to thirty days.

28. *Wages during leave period.*—(1) For the leave allowed to a worker under section 27, he shall be paid at the rate equal to the daily average of his total full-time wages, exclusive of any overtime earnings and bonus, if any, but inclusive of dearness allowance and the cash equivalent of any advantage accruing by the concessional supply by the employer of foodgrains for the day on which he worked.

(2) A worker who has been allowed leave for any period less than four days in the case of an adult and five days in the case of a child under section 27 shall, before his leave begins, be paid his wages for the period of the leave allowed.

29. *Sickness and maternity benefits.*—(1) Subject to any rules that may be made in this behalf, every worker shall be entitled to obtain from his employer—

(*a*) in the case of sickness certified by a qualified medical practitioner, sickness allowance, and

(*b*) if a woman, in the case of confinement or expected confinement, maternity allowance,

at such rate, for such period and at such intervals as may be prescribed.

(2) The State Government may make rules regulating the payment of sickness or maternity allowance and any such rules may specify the circumstances in which such allowance shall not be payable or shall cease to be payable, and in framing any rules under this section the State Government shall have due regard to the medical facilities that may be provided by the employer in any plantation.

CHAPTER VII

PENALTIES AND PROCEDURE

30. *Obstruction.*—(1) Whoever obstructs an inspector in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector any reasonable facility for making any inspection, examination or inquiry authorised by or under this Act in relation to any plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever wilfully refuses to produce on the demand of an inspector any register or other document kept in pursuance of this Act, or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by an inspector acting in pursuance of his duties under

this Act, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

31. *Use of false certificate of fitness.*—Whoever knowingly uses or attempts to use as a certificate of fitness granted to himself under section 25, a certificate granted to another person under that section, or having been granted a certificate of fitness to himself, knowingly allows it to be used, or allows an attempt to use it to be made by another person, shall be punishable with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

32. *Contravention of provisions regarding employment of labour.*—Whoever, except as otherwise permitted by or under this Act, contravenes any provision of this Act or of any rules made thereunder, prohibiting, restricting or regulating the employment of persons in a plantation, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

33. *Other offences.*—Whoever contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided by or under this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

34. *Enhanced penalty after previous conviction.*—If any person who has been convicted of any offence punishable under this Act is again guilty of an offence involving a contravention of the same provision, he shall be punishable on a subsequent conviction with imprisonment which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished.

35. *Exemption of employer from liability in certain cases.*—Where an employer charged with an offence under this Act, alleges that another person is the actual offender, he shall be entitled upon complaint made by him in this behalf to have on giving to the prosecutor in this behalf three clear days' notice in writing of his intention so to do, that other person brought before the court on the day appointed for the hearing of the case, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that—

(*a*) he has used due diligence to enforce the execution of the relevant provisions of this Act; and

(*b*) that the other person committed the offence in question without his knowledge, consent or connivance the said other person shall be convicted of the offence and shall be liable to

612

the like punishment as if he were the employer and the employer shall be acquitted :

Provided that—

(*a*) the employer may be examined on oath and his evidence and that of any witness whom he calls in his support shall be subject to cross-examination on behalf of the person he charges to be the actual offender and by the prosecutor, and

(*b*) If, in spite of due diligence, the person alleged as the actual offender cannot be brought before the court on the day appointed for the hearing of the case, the court shall adjourn the hearing thereof from time to time so, however, that the total period of such adjournment does not exceed three months, and if, by the end of the said period, the person alleged as the actual offender cannot still be brought before the court, the court shall proceed to hear the case against the employer.

36. *Cognizance of offences.*—No court shall take cognizance of any offence under this Act except on complaint made by, or with the previous sanction in writing of, the chief inspector and no court inferior to that of a presidency magistrate or a magistrate of the second class shall try any offence punishable under this Act.

37. *Limitation of prosecutions.*—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof has been made or is made within three months from the date on which the alleged commission of the offence came to the knowledge of an inspector :

Provided that where the offence consists of disobeying a written order made by an inspector, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

CHAPTER VIII

MISCELLANEOUS

38. *Power to give directions.*—The Central Government may give directions to the Government of any Part A State or Part B State as to the carrying into execution in the State of the provisions contained in this Act :

39. *Power to exempt.*—The State Government may, by order in writing, exempt, subject to such conditions and restrictions as it may think fit to impose, any employer or class of employers from all or any of the provisions of this Act :

Provided that in the case of a State Government, other than the Central Government, no such exemption shall be granted except with the previous approval of the Central Government.

40. *General power to make rules.*—(1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act :

Provided that the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897) shall not be less than six weeks from the date on which the draft of the proposed rules was published.

(2) In particular, and without prejudice to the generality of the foregoing power, any such rules may provide for—

(*a*) the qualifications required in respect of the chief inspector and inspector;

(*b*) the powers which may be exercised by inspectors and the areas in which and the manner in which such powers may be exercised;

(*c*) the medical supervision which may be exercised by certifying surgeons;

(*d*) the examination by inspectors or other persons of the supply and distribution of drinking water in plantations;

(*e*) appeals from any order of the chief inspector or inspector and the form in which, the time within which and the authorities to which such appeals may be preferred;

(*f*) the time within which housing, recreational, educational or other facilities required by this Act to be provided and maintained may be so provided;

(*g*) the types of latrines and urinals that should be maintained in plantations;

(*h*) the medical, recreational and educational facilities that should be provided in plantations;

(*i*) the form and manner in which notices of periods of work shall be displayed and maintained; and

(*j*) the registers which should be maintained by employers and the returns whether occasional or periodical, as in the opinion of the State Government may be required for the purposes of this Act.

(3) All rules made under this Act shall, if made by any Government, other than the Central Government, be subject to the previous approval of the Central Government.

STATEMENT OF OBJECTS AND REASONS.

In spite of the fact that the plantation industry provides employment for more than a million workers, there is at present no comprehensive legislation regulating the conditions of labour in the industry. The Tea Districts Emigrant Labour Act, 1932, which applies only to Assam, regulates merely the conditions of recruitment of labour for employment in the tea gardens of Assam. The Workmen's Compensation Act, 1923, which applies to estates growing cinchona, coffee, rubber or tea also does not confer any substantial benefit on plantation labour as accidents in plantations are few. The other Labour Acts, like the Payment of Wages Act, 1936, the Industrial Employment Standing Orders Act, 1946 and the Industrial Disputes Act, 1947 benefit plantation labour only to a

614

very limited extent. In its report the Labour Investigation Committee observed " that as the conditions of life and employment on plantations were different from those in other industries, it would be very difficult to fit plantation labour in the general framework of the Industrial Labour Legislation without creating serious anomalies " and recommended a plantation Labour Code covering all plantation areas.

2. The present Bill, drafted as an All-India measure, seeks to regulate the conditions of plantation labour generally. It applies in the first instance to tea, coffee, rubber and cinchona plantations, but the State Government may apply it to any other plantation. Provision is made in the Bill for assuring to the worker reasonable amenities, as for example, the supply of wholesome drinking water or suitable medical and educational facilities or provision for canteens and creches in suitable cases, or provision for a sufficient number of latrines and urinals separately for males and females. Housing accommodation is also to be provided for every worker and standards and specifications of such housing accommodation will be prescribed after due consultation. The Bill also regulates the working hours of workers employed in the plantations.

3. Children under 12 are prohibited from employment in any plantation and State Governments are empowered to make rules regulating the payment of sickness or maternity benefits.

4. Necessary provision is made in the Bill for the appointment of a suitable inspecting, medical or other staff for the purpose of securing the implementation of the various provisions in the Bill.

JAGJIVAN RAM.

NEW DELHI;
The 5th June, 1951.